R-20127 (11/08)

Claim for Refund of Overpayment

Mail claims to the following address:
Office Audit Division
P.O. Box 66362
Baton Rouge, La 70896-6362

Make a separate claim for each overpayment of tax and for each tax period.

PLEASE PRINT OR TYPE.

Louisiana Account Number	Type of Tax	Period

Name of Taxpayer *(If taxpayer is corporation, enter corporation name.)*

Represented by *(Give name and title.)*

Address

City	State	ZIP	Telephone

Total amount paid for the period	$
Amount Claimed to be due	$
Amount now requested to be refunded	$

This refund is claimed for the following reasons:

_____

_____

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Attach additional sheets, if necessary.

Taxpayer Signature	Date *(dd/mm/yyyy)*
X	

General Information
for Claim for Refund of Overpayment (R-20127)

The Louisiana Department of Revenue has limited authority to issue refunds of overpayments. The Department can only refund an overpayment if there is express statutory authority to issue the refund.

R.S. 47:1621(A). An overpayment is either a payment of tax, interest or penalty when none was due or the excess of tax, interest, or penalty paid over the actual tax liability.

All overpayments of tax are not refundable. In order to be refundable, there must be statutory authority for the Department to issue a refund of the overpayment. The criteria under which an overpayment is refundable are set forth in R.S. 47:1621(B).

R.S. 47:1621(B)(1). An overpayment must be refunded if the overpayment was the result of an error in mathematical computation on the part of the taxpayer. An error in mathematical computation is an error in addition, subtraction, multiplication, or division that occurred on the tax return or any schedule required to be filed with the tax return that was, in fact, filed with the return.

R.S. 47:1621(B)(2). An overpayment must be refunded if the overpayment was the result of the taxpayer applying an interpretation of the law contrary to the secretary of Revenue's interpretation of the law.

The taxpayer's contrary interpretation of the law cannot be frivolous, but rather, if the issue were litigated, the taxpayer must have a realistic possibility of success. A realistic possibility of success exists if a reasonable and well informed person who is knowledgeable in Louisiana tax law would conclude that the taxpayer's interpretation of the law would have a reasonable likelihood of being sustained on the merits.

R.S. 47:1621(B)(3). The overpayment was a result of a change made by the department in a formal assessment under 1565(C).

R.S. 47:1621(B)(4). The overpayment of income tax was the result of a change in federal income tax data and the federal income tax data formed the basis for the calculation of Louisiana income tax paid. This includes RAR adjustments and adjustments made by the taxpayer on an amended federal income tax return.

R.S. 47:1621(B)(5). The overpayment of income tax was the result of an excess estimated income tax payment.

R.S. 47:1621(B)(6). The overpayment of income tax was the result of a net operating loss carryback. This provision does not allow the refund of overpayments that resulted from a net operating loss carryforward.

Additional statutes authorizing the Department to issue refunds or rebates of overpayments:

Corporation Income and Franchise Taxes: R.S. 47:6006, R.S. 47:6006.1, R.S. 51:2455

Excise Taxes: R.S. 26:347, R.S. 47:715.1, R.S. 47:750, R.S. 47:802.1, R.S. 47:802.2, R.S. 47:811, R.S. 47:829, R.S. 47:857, R.S. 47:1681

Personal Income Tax: R.S. 47:115(A), R.S. 47:6006, R.S. 47:6006.1, R.S. 51:2455

Sales Tax: R.S. 47:305.20(D), R.S. 47:306(B), R.S. 47:315(A), R.S. 47:315(B), R.S. 47:315.1, R.S. 47:315.3

Severance Tax: R.S. 47:633(7)(c)(iv)(bb)